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Application No. 09/934310
*Page 3**Amendment*
*Attorney Docket No. S63.2N-8429-US04***Remarks**

This Amendment is in response to the Office Action dated November 27, 2007.

The Office Action: 1) objected to the Specification for failing to provide antecedent basis for claimed subject matter, 2) objected to claim 42 for failing to include a comma, 3) rejected claims 47 and 48 under 35 U.S.C. §102(e) by US 5,609,627 (hereinafter Goicoechea) and under 35 U.S.C. §103(a) by Goicoechea alone, 4) rejected claims 34, 35, and 37 under 35 U.S.C. §103(a) over US 5,421,955 (hereinafter Lau) in view of US 5,843,117 (hereinafter Alt), 5) rejected claims 42-45, and 47 under 35 U.S.C. §103(a) over Lau in view of Alt, 6) rejected claims 34, 35, 37, 42-45, and 47 under 35 U.S.C. §103(a) over Lau in view of US 6,027,526 (hereinafter Limon), and 6) rejected claim 49 under 35 U.S.C. §102(e) by Goicoechea.

The pending claims have been canceled without prejudice or disclaimer and replaced with new claims 50-55 with simplified language in order to place the application in better condition for appeal. Support for the 'seamless' language and the 'pattern of openings' may be found at least in the earliest priority application on pages 6 and 13.

Applicant reserves the right to prosecute the canceled claims at a later point.

1) Specification Objection

The Specification was objected to for failing to provide antecedent basis for the claimed flow path. The objection is believed to be moot in light of the cancellation of the pending claims and the addition of the new claims.

2) Objection to punctuation in claim 42

Claim 42 was objected to for not including a comma after the word "diameter". Claim 43 has been canceled, mooted objection.

3) Rejection of claims 47 and 48 under 35 U.S.C. §§ 102(e) and 103(a) by Goicoechea

The Office action rejected claims 47 and 48 under 35 U.S.C. §§102(e) and 103(a) in light of Goicoechea.

Applicant disagrees with the contention of the Office Action that:

"cut from a tube" product-by-process limitation is met by Goicochea since the

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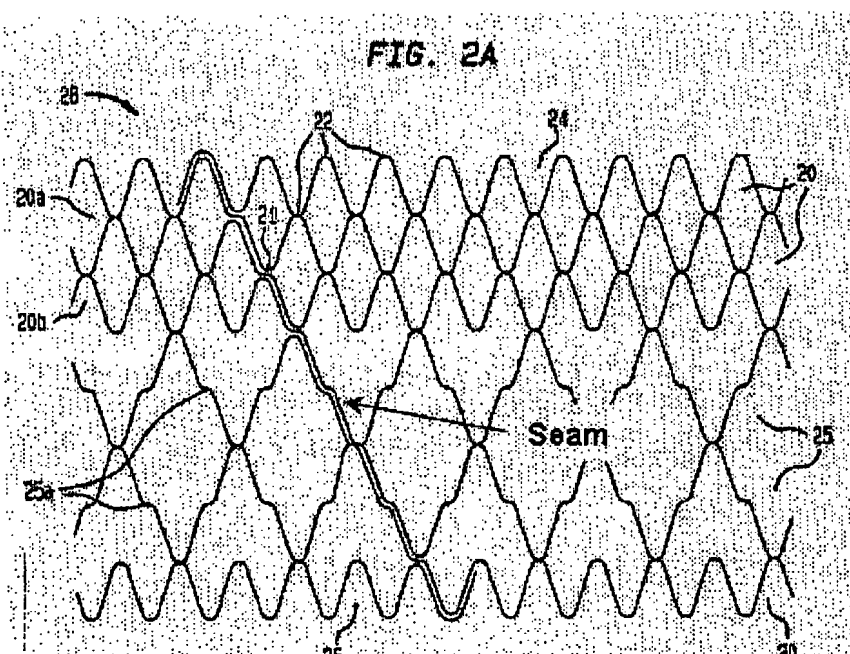
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stent of Goicochea could be cut from a longer legged stent.

The Office Action provides no prior art showing that the Goicochea stent (or other stents, for that matter) were manufactured by cutting off a portion from a longer stent.

Nevertheless, to facilitate prosecution, claim 47 and 48 have been canceled. The new claims refer to a seamless stent (claims 50, 51, 54 and 55) and to a stent cut from a tube (claims 52-53).

As to claims 50, 51, 54 and 55, the Goicochea stent is not seamless. See, for example, the securing means that are used to join juxtaposed apices (Figs. 4 and col. 4, lines 27-39). Also, there are seams where the wire transitions from hoop to hoop, as shown below in an annotated copy of Fig. 2A.



As to claims 52 and 53, the claims require that the stent having a pattern of openings formed by removing material from the tube. As discussed above, the Office Action has not provided any art showing the cutting of a shorter Goicochea stent from a longer one. Moreover, cutting a shorter Goicochea stent from a longer one would not result in the pattern of openings being created by the removal of material. Given the disclosure of the use of securing means to secure the various portions of the Goicochea stent together, if anything, the pattern of

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openings in the Goicochea stent is created by adding material (eg sutures) and not removing material.

The resulting difference between the Goicochea stent and the stent of the present claims cannot be characterized as 'slight'.

4) 35 U.S.C. § 103(a) Rejection of claims 34, 35, 37, 42-45, and 47 under Lau in view of Alt or Limon

The Office Action rejected claims 34, 35, 37, 42-45 and 47 under 35 U.S.C. §103(a) over Lau in view of Alt. The rejection is moot in light of cancellation of the claims at issue.

Applicant notes, however, that none of Lau, Alt or Limon references discloses the arrangement of annular elements of increasing (or decreasing) longitudinal lengths.

Specifically as to Lau, Applicant notes that Lau's disclosure (col. 5, line 65 – col. 6, line 2):

The particular pattern and how many undulations per unit of length around the circumference of the cylindrical element 13, or the amplitude of the undulations, are chosen to fill particular mechanical requirements for the *stent* such as radial stiffness.

does not state that a particular stent may have struts of different length.

5) Rejection of claim 49 under 35 U.S.C. §§ 102(e) and 103(a) by Golcoecha

Applicant erroneously included previously cancelled claim 49 in a previous response. Instant claim 49 has been properly indicated as cancelled.

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Conclusion

Based on the previous remarks, Applicant respectfully submits this application is in condition for allowance. Favorable consideration and prompt allowance of claims 50-55 are requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: April 26, 2007

By: 

Benjamin E. Carlsen

Registration No.: 52,697

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

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APR 26 2007

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	G. David Jang
Application No.:	09/934310
Filed:	August 21, 2001
For:	Intravascular Stent
Group Art Unit:	3738

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Docket No.: S63.2N-8429-US04

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Listed below or on an attached form listing the cited references and/or a copy of a PTO-892 form is information known to applicant(s). 37 CFR 1.98(a)(3)(ii) requires an English translation of any non-English language document provided in this disclosure. Disclosed item WO 94/17754 is a German language reference. Disclosed item US 5,860,999 is a US Patent Application which is also an English-Language translation of WO 94/17754.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If the form listing the cited references or PTO-892 from a prior application is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is prior art, or is or is considered to be, material to patentability as defined in §1.56.

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02 FC:1806 100.00 DA

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Information Disclosure Statement
Attorney Docket No. S63.2N-8429-US04

Applications that are listed on the accompanying form listing the cited references as related by priority are related by priority claim under 35 USC §120. Pursuant to 37 CFR §1.98(d), no copies of cited art in a previous application(s) to which priority was claimed need be submitted. Applicant is providing copies of the form listing the cited references and/or 892 forms from these cases.

 I. This statement qualifies as a no-fee Information Disclosure Statement under 37 C.F.R. §1.97(b) or otherwise because to the knowledge of the undersigned attorney it is being filed (check all that apply):

- (1) within 3 months of the filing date of the application (other than a CPA); or
- (2) within 3 months of entry of the national stage; or
- (3) before the mailing of a first Office Action on the merits;
- (4) before the mailing of a first Office Action after the filing of a request for continued examination (RCE) under §1.114;
- (5) as part of a continued prosecution application (CPA); or
- (6) during the period of a suspension of action for a CPA under 37 C.F.R. §1.103(b).

✓ **II.** This statement is believed to require a fee or the submission of a certification under 37 C.F.R. §1.97 (c) or otherwise. If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application (other than CPA); (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; (3) the mailing of a first Office Action on the merits; (4) the mailing of a first Office Action after the filing of a request for continued examination under §1.114; or (5) after the filing of a request for a continued prosecution application, but before the mailing date of the earlier of a final office action under §1.113, a notice of allowance under §1.311 or an action that otherwise closes prosecution in the application, then:

- (1) a certification as specified in §1.97(e) is provided below; or
- ✓ (2) a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

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Information Disclosure Statement
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III. 37 C.F.R. §1.97(d). If this statement is being filed after the mailing date of the earlier of a final office action under §1.113, a notice of allowance under §1.311, or an action that otherwise closes prosecution in the application, but before payment of the issue fee, then:

- _____ (1) a certification as specified in §1.97(e) is completed below; and
_____ (2) a fee of \$180.00 as set forth in §1.17(p) is authorized below, enclosed, or included with payment of other papers filed together with this statement.

X **IV. Fee Authorization.** If any fee is due for consideration of this Information Disclosure Statement and full payment has not been submitted herewith, regardless of which boxes have been checked above, the Commissioner is hereby authorized to charge any additional fees associated with this communication to Deposit Account No. 22-0350. The Commissioner is hereby authorized to credit any overpayment associated with this communication to Deposit Account No. 22-0350.

If paragraph II.1 or III is checked, also check one of the paragraphs below

_____ I hereby certify, under 37 CFR §1.97(e)(1), that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the date of the filing of this information disclosure statement.

_____ This communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the Information Disclosure Statement.

_____ I hereby certify, under 37 CFR §1.97(e)(2), that no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and to the knowledge of the person signing the statement after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in 1.56(c) more than three months prior to the filing of the Information Disclosure Statement.

For the purpose of this certification, Applicant considers the PCT International Search Authority to constitute a foreign patent office.

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If this Information Disclosure Statement has been submitted without the appropriate box checked, Applicant requests that this Information Disclosure Statement be considered nevertheless if it is timely submitted under any of the provisions of 37 C.F.R. §1.97 or otherwise. Finally, if any petition is necessary to ensure consideration of this Information Disclosure Statement, Applicant requests that this be treated as such a petition.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: April 26, 2007

By: 

Benjamin E. Carlsen
Registration No.: 52697

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

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